64TH CONGRESS
1st Session

SENATE

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NATIONAL PROHIBITION

REPORTS

OF THE

SENATE COMMITTEE ON EDUCATION AND LABOR

IN THE

FORTY-NINTH FIFTIETH, AND FIFTY-FIRST CONGRESSES, FAVORABLY RECOMMENDING THE PASSAGE OF RESOLUTIONS FOR THE SUBMISSION OF THE QUESTION OF NATIONAL CONSTITUTIONAL PROHIBITION TO THE SEVERAL STATES OF THE UNION

TOGETHER WITH

A LETTER FROM EX-SENATOR HENRY W. BLAIR, OF NEW HAMPSHIRE TO HON. MORRIS SHEPPARD, UNITED STATES SENATOR FROM TEXAS, RELATING THERETO

PRESENTED BY MR. CHILTON

JANUARY 24, 1916.—Ordered to be printed

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1563.

IN THE SENATE OF THE UNITED STATES.

JULY 26, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Education and Labor, submitted the following

REPORT.

[To accompany S. Res. 6.]

The Committee on Education and Labor, to whom was referred joint resolution of the Senate No. 6, "proposing an amendment to the Constitution in relation to alcoholic liquors and other poisonous beverages," have considered the same, and by a majority of their number report the joint resolution back favorably and recommend its passage and that the proposed amendment be submitted to the legislatures of the States for their action, with a view to the ratification thereof, as provided in the Constitution.

The committee does not deem it necessary to discuss the evils wrought by the use of alcohol in its various forms and degrees of purity and of adulteration as a beverage upon the life, health, industry, property, morals, character, and destiny of the American people and of the world.

Whatever remedy, whether by the enactment and enforcement of laws, by the forces of education, and motives addressed to the moral nature and will of the individual, or by a combination of all restricted agencies, the whole people, with very few exceptions, admit the existence of the curse itself and cry out, "Who and what shall deliver us from this body of death?" Your committee believe that public sentiment is ripe for the consideration and adoption of the best means, and of all the means, and the exertion of all the forces, both in the Nation and in the States, to effect the extirpation of the alcoholic evil.

Thus far the people have struggled to accomplish this end with no help from national law. On the contrary, the recognition and protection given to alcoholic drink as property, as a legitimate article of manufacture everywhere and for all uses, and of commerce, both interstate and international, by the Constitution and laws of the United States, have always constituted one of the chief obstacles to the success of that great movement known as the "temperance reform," and until there be a change in the fundamental law of the Nation, giving complete jurisdiction over the subject to assist and, if necessary

to reverse the action of the States by the power of the whole body politic throughout the whole national domain, the efforts of the people through State and local agencies will always be greatly hindered and generally in the end will fail.

But, however that may be, the question considered by the committee is not one primarily touching the merits of the proposed amendment itself, but whether there is a sufficient public sentiment in favor of the submission of the amendment to the action of the people to require the passage of the joint resolution.

The majority of the committee believe that the minds of the most careful and conservative students of the liquor problem are rapidly coming to the conclusion that this national evil must and only can be removed by national legislation enforced by the national will in cooperation with the efforts of the State.

In nearly every voting precinct of this country there are American citizens who desire the proposed amendment to the National Constitution. They are determined upon political action. They will have it through existing political organizations or they will destroy one or both of the great parties of to-day and form one which will consent to take the sense of the people upon the question of amending the Constitution so as to give national jurisdiction over the traffic in strong drink. Why should they be denied the opportunity to be heard in the only forum which can pass upon the question? When any considerable and respectable portion of the American people desire to plead their cause in the great tribunal of sovereigns who, in a free country, decide every fundamental issue in the last resort, it is the duty of Congress to enact such preliminary legislation as is here proposed, so that under the forms of the Constitution they can be heard on the question of its own amendment. To deny this is of the very essence of despotism, and for Congress unreasonably to refuse the hearing is just cause of revolution. The people will demand a hearing for every large and respectable minority, and to grant this opportunity is the purpose of this resolution. Whatever may be the result, all must abide by it. But there can be no justification of a denial of the right to be heard.

Until that right is granted there will be, there can be, no peace to political partisans in this country. If there could be it would prove that the nature of government was already changed, and that under the forms of a progressive free republic we are become a hidebound despotism having a name to live but really already dead.

Your committee are unable at this late period of the session properly to present the great cause the promotion of which is the purpose of this resolution. Fortunately it is not necessary. We appeal to the universal sentiment which is the very basis of our political institutions, the right of every voting citizen to be heard at the polls upon every great question which concerns the public weal. Than this there can be none more important, and we earnestly hope the resolution may be adopted in the furtherance of the exercise of the primal rights of American sovereignty, which is that of each citizen to be heard by all, and of any considerable portion of the people to demand a verdict of the whole upon great issues which concern the general weal.

50TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1727.

IN THE SENATE OF THE UNITED STATES.

JULY 9, 1888.—Ordered to be printed.

Mr. BLAIR, from the Committee on Education and Labor, submitted the following

REPORT.

[To accompany S. Res. 12.]

By direction of the Committee on Education and Labor, Mr. Blair submits the following report on Senate resolution 12, entitled "Joint resolution proposing an amendment of the Constitution of the United States in relation to the manufacture, importation, exportation, transportation, and sale of alcoholic liquors," recommending its submission to the States, to become valid as a part of the Constitution when ratified by the legislatures of three-fourths of the several States, as provided in the Constitution.

The joint resolution is in the following words:

JOINT RESOLUTION Proposing an amendment of the Constitution of the United States in relation to the manufacture, importation, exportation, transportation, and sale of alcoholic liquors.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment to the Constitution of the United States be, and hereby is, proposed to the States, to become valid when ratified by the legislatures of three-fourths of the several States, as provided in the Constitution:

"ARTICLE —.

"SECTION 1. The manufacture, importation, exportation, transportation, and sale of all alcoholic liquors as a beverage shall be, and hereby is, forever prohibited in the United States and in every place subject to their jurisdiction.

"SEC. 2. Congress shall enforce this article by all needful legislation."

In submitting this favorable report upon the aforesaid joint resolution it is proper to say that there are members of the committee who concur in the report recommending the submission of the proposed amendment to the States who do not, by such action, indicate their approval of the adoption of the amendment as a part of the Constitution nor that they would themselves advocate its ratification by the legislatures of the States; but in deference to the immense mass of petitions for this amendment of the organic law, coming from the people in all parts of the country, and believing that an opportunity should be given to them to be heard upon the merits of their cause in

the forum of the States, where alone it can be heard and decided, the majority of the committee would deem a refusal to submit the proposed amendment to the States for consideration analogous to the denial of the right of a party to be heard in court upon a question of private right. The method provided in the Constitution for its own peaceful amendment would be destroyed by failure to submit the proposition for amendment in cases of grave moment involving the approval and prayers of multitudes of the people, for where the remedy sought is admitted to be without the jurisdiction of the fundamental law, the petition is really addressed to the only tribunal which can enlarge that jurisdiction, that is to say, to the States themselves. Should, then, Congress, in such case refuse to submit the proposal to the States, such refusal would constitute a substantial denial of the right of petition itself.

The changes in the National Constitution made indispensable by the development of the Nation can only be peacefully accomplished by a judicious and liberal exercise of the power of Congress to propose amendments to the States upon the petition of those who desire to be heard in the great court of the people exercising their sovereignty through the States as in the formation of the Constitution.

It is well known that, but for the belief in the conventions of the States that the opportunity to amend the Constitution would be most liberally afforded by Congress in accordance with the forms provided in that instrument, the original ratification never would have been obtained. Some of the States ratified only because it was firmly believed that, whatever might be the opinions of Congress upon the modifications desired by those who considered the instrument proposed for ratification as fatally defective without them, the suggested amendments would be submitted to the subsequent action of the States almost as a matter of course.

While the committee would by no means justify the submission of trifling or uncalled-for propositions for the consideration of the States, yet they firmly believe that the perpetuity and peace of the country under the forms of constitutional government demand that there be no captious or arbitrary denial of the right of petition for the amendment of the fundamental law through the forms of congressional submission to the tribunal of the people in the States.

The agitation for national legislation for the extirpation of the traffic in alcoholic poison made and sold to be used as a beverage will never cease to disturb and finally destroy great political parties until they submit the question of the enlargement of national constitutional jurisdiction so as to include control of the subject.

When this proposed amendment is submitted to the action of the States the subject will pass in its important features from the national arena to that of the several States until the fate of the proposed amendment is decided. When decided, if adversely to the ratification, the subject will be eliminated from national politics at least for many years.

If on the other hand the proposed amendment should be ratified and become a part of the national law, the chief curse of the world would be summoned to the block of national justice and die by the hand of the only power which can wield an ax big and sharp enough to cut off its hydra head.

Then we should have peace.

But the agitation for the destruction of the liquor traffic can not cease until the evils which it inflicts upon mankind are removed or the human race is destroyed.

It is useless to cry peace, peace, when there is no peace. It is time to face the subject. Evasion has become almost impossible, and the effort requires an activity which is too exhaustive for its long continuance.

Judging from the petitions which have been presented to Congress during the last few years, many of which are representative of great bodies and of communities whose individual signatures have not been obtained, it can hardly be doubted that at least ten millions of the American people are desirous of national legislation for the destruction of poisonous—that is to say, of alcoholic—drinks.

These people represent a power of thought and a moral force far greater than their mere numbers. Whoever expects to withstand the shock of their charge will yet regret that its irresistible power was not seasonably realized.

These petitions for the opportunity to amend the National Constitution must be heard and will be heard. Those who will oppose them in the States will yet demand that they shall be heard in the States upon the proposition of a prohibitory amendment of the National Constitution.

To deny this is to subvert the republican form of Government, and the honorable opponents of the measure will not always refuse to its friends that hearing in court which is the sacred right of every American, and especially in a matter of so great national concern. * * *

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51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1584.

IN THE SENATE OF THE UNITED STATES.

AUGUST 13, 1890.—Ordered to be printed.

M . BLAIR, from the Committee on Education and Labor, submitted the following

REPORT.

[To accompany S. R. 2.]

Mr. Blair, from the Committee on Education and Labor, to whom was referred Senate resolution No. 2, being joint resolution proposing an amendment to the Constitution of the United States in relation to the manufacture, importation, exportation, transportation, and sale of alcoholic liquors, by direction of the committee, submits the following report recommending the passage of the resolution.

* * * * * * *

As the Constitution of the United States is almost universally construed, the National Government has no jurisdiction over the liquor traffic within the States. The National Government has, however, the exclusive power to regulate commerce, both internal and external, and with the Indian tribes; and it recognizes all articles as subjects of legitimate commerce which are the subjects of commerce between any of the States, or in the commercial world, subject sometimes to many, sometimes to few, sometimes to no restrictions whatever. Alcoholic beverages, in all their forms, are universally recognized subjects of commerce. Thus the National Government, regulating and protecting commerce between the States and foreign nations, becomes, in practical effect, the protector of the liquor traffic. Just what its powers may be when the Constitution shall be construed by a Supreme Court made up of men determined to find its uttermost powers to limit or even to destroy the traffic it is unnecessary now to inquire. No such judicial tribunal now exists and none should exist which will torture a desired doctrine from a recusant Constitution. A court which will extort good from the Constitution by a forced and unnatural construction will upon occasion find evil with at least equal facility. We well know that very few of our people and only the smallest proportion of the legal profession and of the judiciary, either of the States or of the Nation, up to this time, have believed that under the Constitution the National Government can interfere for the restriction and destruction of the

liquor trade in the States. Equally difficult will it be to find any considerable number of students who have studied our Constitution and laws who believe that the power to prohibit the traffic in intoxicating liquors with foreign nations can unquestionably be exercised by the National Government under the Constitution in its present form.

* * * * * * *

National law, enacted under an amended Constitution, could prohibit importation, could prohibit transportation and sale, and in concurrence with like legislation by the States (the union of the power of the Nation and the power of the States), thus securing the entire strength of the whole community, could soon put an end to the traffic. Under such restrictions in a generation or two the consumption of alcohol as a beverage would practically disappear. Alcohol would still be manufactured, distributed, and sold under the restrictions appertaining to other poisons; and its use as a medicine and in the arts would not be interfered with. Its manufacture and distribution would be controlled by like regulations as those made with reference to dynamite, nitroglycerine, and gunpowder, and the whole family of poisons, and, in fact, all articles of great and dangerous potency, which, nevertheless, have their legitimate uses for the benefit of mankind.

Those who urge an amendment of the National Constitution to secure the removal of the evils of intoxication are not careful that the uttermost power which possibly may be concealed in the Constitution be put forth to this end before an attempted amendment. They hold that if there be any doubt, as there is doubt, of the true meaning of the Constitution, it should be removed at once by a bold and affirmative and unmistakable declaration against the liquor traffic embodied in the Constitution itself for the general welfare. It should be made aggressive and explicit.

We should seize this great evil by power analogous in its completeness and vigor to that of taxation and of making war. No foreign invader, nor all the military powers of the world combined could do the harm to the American people under which they are continually suffering from the trade in alcohol; and for the national preservation the Constitution should declare inflexible and perpetual war against it. The timorous, uncertain, and ineffectual efforts of States should not be relied upon. It is indispensable to the very existence of their police powers, which have been given for the preservation of good order, good health, and good morals in society, that the powers of society, as a whole, operating in and through the national functions, should reinforce, protect, and preserve the police powers of the State. The Nation is but the aggregate of the States, and the parts can not be expected to accomplish their own good with the aggregate operating against them, or even passively reposing upon them with its continental bulk.

Such is the line of argument, briefly stated, of those who believe that this joint resolution should be made a part of the Constitution.

Your committee, whether unanimous or otherwise, in the holding to this view are of the opinion that the resolution should be favorably reported, and should be submitted by Congress to the action of the States for another reason. It being a fact that a very large propor-

tion of the American people are anxious that the National Constitution be amended in accordance with the resolution, we believe that they have a right to be heard in the forum of the State legislatures, where alone the question can be decided whether the National Constitution shall be amended. That Constitution points out definitely the manner in which a change in its provisions may be effected. The Constitution of the country must be amended from time to time to correspond with the evolution of the Nation itself, for it is impossible to fetter the growth of the Nation in any direction. It will grow, peacefully or otherwise. The Constitution must yield here and there, corresponding to the necessities of the times and of the people, and the necessary changes be peacefully made, in accordance with the methods of amendment pointed out in the Constitution itself, or revolution and bloodshed will perform their work. The Constitution and the spirit of the age must be one. Whenever any considerable and respectable portion of the American people (and no considerable number can fail to be respectable) desire changes in the fundamental law and ask respectful consideration of their propositions by the Nation at large, we hold it to be the duty of the Congress to give them a status in the court provided by the Constitution for its own amendment.

They have a right that their contention be placed in proper form before the local legislatures and the people before they have demonstrated that they are able to secure its ratification by three-fourths of the States. That ratification, if it comes at all, will come as a result of agitation and discussion of the very proposition which they ask to have submitted. The true question for Congress to consider is not whether three-fourths of the States will ratify, after discussion and agitation, but whether the subject concerns the public welfare, and whether those who desire the submission of the resolution be of sufficient number to relieve the proceeding from the charge of triviality and inconsequence. Deciding upon grounds like these, your committee are impressed by the overwhelming importance of the subject to the Nation and to the world, and by the vast number, not to say the majority of the moral and intellectual forces of the country, which demand the submission of this joint resolution to the consideration of the States.

We, therefore, report it favorably, and recommend its passage.

COPY OF A LETTER FROM EX-SENATOR HENRY W. BLAIR, OF NEW HAMPSHIRE, TO SENATOR MORRIS SHEPPARD, OF TEXAS, RELATIVE TO CERTAIN REPORTS IN REGARD TO NATIONAL PROHIBITION.

COLORADO BUILDING,
Washington, D. C., November 16, 1914.

Hon. MORRIS SHEPPARD,
United States Senate, Washington, D. C.

MY DEAR SIR: Your letter of recent date, referring to resolution for national prohibition, introduced by me in the Forty-fourth Congress, and in each Congress following while I was in public life, and specially inquiring as to the position of Senator George, of Mississippi, upon the question of the submission by Congress of a joint resolution to the legislatures of the States with a view to the ratification or otherwise of said resolution as a part of the Constitution of the United States, was duly received. Said resolution is found in Senate Report No. 1584, of the Fifty-first Congress, first session, where it was unanimously and favorably reported by the Committee on Education and Labor, of which I was chairman. Senator George, of Mississippi, had long been a leading member of said committee, taking great interest in all measures coming before it, including the one in question. I did not understand that he was committed to the ratification of the amendment as a part of the Constitution, but he was, with the rest of the committee, of the opinion that it should be submitted to the legislatures of the States for action for the reasons set forth in the report, an extract of which is herewith incorporated.

You will observe that the report, which is dated August 13, 1890, sets forth the views of those who favored the ratification of the resolution, closing the brief review of arguments in support of their views with these words at the end of the fourth page: "Such is the line of argument, briefly stated, of those who believe that this joint resolution should be made a part of the Constitution." It then proceeds to state the reasons for the "unanimous" recommendation that the resolution be favorably reported and submitted by Congreess to the action of the States through their legislatures:

"Your committee, whether unanimous or otherwise, in the holding to this view, are of the opinion that the resolution should be favorably reported and should be submitted by Congress to the action of the States for another reason; it being a fact that a very large proportion of the American people are anxious that the National Constitution be amended in accordance with the resolution, we believe that they have a right to be heard in the forum of the State legislatures, where alone the question can be decided whether the National Constitution shall be amended. That Constitution points out definitely the manner in which a change in its provisions may be effected. The Constitution of the country must be amended from time to time to correspond with the evolution of the Nation itself, for it is impossible to fetter the growth of the Nation in any direction. It will grow, peacefully or otherwise. The Constitution must yield here and there, corresponding to the necessities of the times and of the people, and the necessary changes be peacefully made, in accordance with the methods of amendment pointed out in the Constitution itself, or revolution and bloodshed will perform their work. The Constitution and the spirit of the age must be one. Whenever any considerable and respectable

portion of the American people (and no considerable number can fail to be respectable) desire changes in the fundamental law, and ask respectful consideration of their propositions by the Nation at large, we hold it to be the duty of the Congress to give them a status in the court provided by the Constitution for its own amendment.

"They have a right that their contention be placed in proper form before the local legislatures and the people before they have demonstrated that they are able to secure its ratification by three-fourths of the States. That ratification, if it comes at all, will come as a result of agitation and discussion of the very proposition which they ask to have submitted. The true question for Congress to consider is not whether three-fourths of the States will ratify, after discussion and agitation, but whether the subject concerns the public welfare, and whether those who desire the submission of the resolution be of sufficient number to relieve the proceeding from the charge of triviality and inconsequence. Deciding upon grounds like these, your committee are impressed by the overwhelming importance of the subject to the Nation and to the world, and by the vast number, not to say the majority, of the moral and intellectual forces of the country, which demand the submission of this joint resolution to the consideration of the States. We therefore report it favorably and recommend its passage."

There was a majority report in favor of the resolution, Senate Report 1531, first session Forty-ninth Congress, and a unanimous report in favor of submission to the legislatures of the States for action upon the question of ratification, Senate Report 1727, first session Fiftieth Congress, but in the latter there is an ambiguity which is entirely removed in the report of the committee in the Fifty-first Congress, which is cited above.

The committee was unanimous in recommending the submission of the joint resolution to the legislatures of the States for action upon the question of ratification as a part of the Constitution.

The Committee on Education and Labor in the Fiftieth Congress consisted of Blair (chairman), Bowen, Palmer, Wilson, George, Call, Pugh, Payne, Sawyer (excused), and Riddleberger, appointed February 16, 1888.

Fifty-first Congress, first session: Blair, Wilson of Iowa, Stanford, Stewart, Washburn, George, Pugh, Payne, and Barbour.

You inquired specially for the position of Senator George, of Mississippi, and I have substantially answered above. He was a member of the committee (Education and Labor) for about 10 years, and we were closely associated as friends and in the work of the committee. He favored the submission of the resolution to the legislatures of the States, as, in fact, did the whole committee in the last report ever made on the subject. It was at no time debated in the Senate. I moved for its consideration the day before the close of a session, but the pressure of business and the fact that extended debate was unavoidable defeated the effort. The members of the committee did not consider that by recommending submission to the legislatures they were pledging themselves to favor ratification by the legislatures of the States. I think both Senators George and Pugh had no superiors as lawyers or statesmen in the Senate at that time.

Truly, yours,

HENRY W. BLAIR.

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